

House File 2304 - Introduced

HOUSE FILE 2304

BY GASKILL

A BILL FOR

- 1 An Act requiring a postelection audit after each general
- 2 election and including effective date and applicability
- 3 provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 49.53, subsection 1, Code 2016, is
2 amended to read as follows:

3 1. The commissioner shall not less than four nor more than
4 twenty days before the day of each election, except those for
5 which different publication requirements are prescribed by law,
6 publish notice of the election. The notice shall contain a
7 facsimile of the portion of the ballot containing the first
8 rotation as prescribed by [section 49.31, subsection 2](#), and
9 shall show the names of all candidates or nominees and the
10 office each seeks, and all public questions, to be voted upon
11 at the election. The sample ballot published as a part of the
12 notice may at the discretion of the commissioner be reduced in
13 size relative to the actual ballot but such reduction shall
14 not cause upper case letters appearing in candidates' names or
15 in summaries of public measures on the published sample ballot
16 to be less than nine point type. The notice shall also state
17 the date of the election, the hours the polls will be open,
18 the location of each polling place at which voting is to occur
19 in the election, and the names of the precincts voting at each
20 polling place, but the statement need not set forth any fact
21 which is apparent from the portion of the ballot appearing as
22 a part of the same notice. The notice shall include the full
23 text of all public measures to be voted upon at the election.
24 For the general election, the notice shall also include notice
25 of the time and place of the postelection audit required by
26 section 50.51.

27 Sec. 2. Section 50.12, Code 2016, is amended to read as
28 follows:

29 **50.12 Return and preservation of ballots.**

30 Immediately after making the proclamation, and before
31 separating, the board members of each precinct in which votes
32 have been received by paper ballot shall enclose in an envelope
33 or other container all ballots which have been counted by them,
34 except those endorsed "Rejected as double", "Defective", or
35 "Objected to", and securely seal the envelope. The signatures

1 of all board members of the precinct shall be placed across
2 the seal or the opening of the container so that it cannot
3 be opened without breaking the seal. The precinct election
4 officials shall return all the ballots to the commissioner, who
5 shall carefully preserve them for six months. Ballots from
6 elections for federal offices shall be preserved for twenty-two
7 months. The sealed packages containing voted ballots shall
8 be opened only for an official recount authorized by section
9 50.48, 50.49, or 50.50, for an election contest held pursuant
10 to chapters 57 through 62, for a postelection audit required by
11 section 50.51, or to destroy the ballots pursuant to section
12 50.19.

13 Sec. 3. Section 50.48, subsection 1, paragraph a,
14 unnumbered paragraph 1, Code 2016, is amended to read as
15 follows:

16 The county board of canvassers shall order a recount of the
17 votes cast for a particular office or nomination in one or
18 more specified election precincts in that county if a written
19 request therefor for a recount is made not later than 5:00 p.m.
20 on the third day following the county board's canvass of the
21 election in question. However, if a postelection audit is
22 expanded pursuant to section 50.51, subsection 6, paragraph
23 "c", the request for a recount shall be made not later than
24 5:00 p.m. on the first business day following completion of
25 the audit. The request shall be filed with the commissioner
26 of that county, or with the commissioner responsible for
27 conducting the election if section 47.2, subsection 2, is
28 applicable, and shall be signed by either of the following:

29 Sec. 4. NEW SECTION. 50.51 Postelection audit.

30 1. a. After each general election, a postelection audit of
31 the tabulation of votes shall be conducted as provided in this
32 section.

33 b. A postelection audit conducted pursuant to this section
34 shall not affect a person's right to request a recount under
35 section 50.48 or the right of electors to request a recount

1 of a public measure under section 50.49 or the commissioner's
2 right to request an administrative recount under section 50.50.
3 If a request for a recount is filed under section 50.48, a
4 postelection audit of the office for which the recount was
5 requested shall not be conducted or shall be terminated, as the
6 case may be.

7 2. The commissioner shall include notice of the time and
8 place of the postelection audit in the notice of the election
9 published pursuant to section 49.53. The commissioner shall
10 also notify the county chairperson of each political party
11 referred to in section 49.13, subsection 2, of the time and
12 place of the postelection audit.

13 3. *a.* The postelection audit shall be conducted for the
14 offices of president of the United States and governor and
15 an additional office listed in paragraph "b" or "c", and the
16 offices listed in paragraph "d", if applicable.

17 *b.* When the office of president of the United States
18 appears on the ballot, the votes cast for one of the following
19 contested offices shall be audited:

- 20 (1) United States senator.
- 21 (2) United States representative.
- 22 (3) Senator in the general assembly.
- 23 (4) Representative in the general assembly.

24 *c.* When the office of governor appears on the ballot, the
25 votes cast for one of the following contested offices shall be
26 audited:

- 27 (1) United States senator.
- 28 (2) United States representative.
- 29 (3) Senator in the general assembly.
- 30 (4) Representative in the general assembly.
- 31 (5) Secretary of state.
- 32 (6) Auditor of state.
- 33 (7) Treasurer of state.
- 34 (8) Attorney general.
- 35 (9) Secretary of agriculture.

1 *d.* The additional office to be audited under paragraph
2 "*b*" or "*c*" shall be chosen by lot at the same time and in the
3 same manner that precincts to be audited are chosen pursuant
4 to subsection 4. If in the election to be audited, none of
5 the offices listed in paragraph "*b*" were contested races,
6 the offices of county supervisor, county auditor, and county
7 sheriff shall be entered in the lot, and if none of the offices
8 listed in paragraph "*c*" were contested races, the offices
9 of county supervisor, county attorney, county treasurer, and
10 county recorder shall be entered in the lot.

11 *e.* In addition to the offices listed in this subsection
12 as being subject to the postelection audit, the commissioner
13 may choose to include any other office or public measure that
14 appeared on the ballot in those precincts chosen for the
15 postelection audit.

16 4. *a.* The precincts for which a postelection audit shall
17 be conducted shall be chosen by lot by the chairperson of
18 the county board of canvassers on the day the canvass of
19 the general election is conducted. After the precincts have
20 been chosen, the additional office to be audited, as provided
21 in subsection 3, shall be chosen by lot by the chairperson.
22 The selection proceedings shall be open to the public and to
23 observers from the political parties.

24 *b.* The number of precincts chosen shall be as follows:

25 (1) In counties with fifty thousand or fewer registered
26 voters, two precincts.

27 (2) In counties with more than fifty thousand registered
28 voters up to and including one hundred thousand registered
29 voters, three precincts.

30 (3) In counties with more than one hundred thousand
31 registered voters up to and including two hundred thousand
32 registered voters, four precincts.

33 (4) In counties with more than two hundred thousand
34 registered voters, six precincts.

35 *c.* The absentee and special voters precinct established

1 in section 53.20 shall be considered a precinct for purposes
2 of a postelection audit. If the absentee and special voters
3 precinct is chosen by lot to be audited, a number of ballots
4 equal to five percent of the absentee ballots cast in the
5 election shall be audited.

6 *d.* For purposes of paragraph "b", "registered voters"
7 means those persons registered to vote as of the close of
8 registration for the general election pursuant to section
9 48A.9, subsection 1.

10 *e.* The county board of canvassers shall not use a
11 computerized process of randomization as the method of
12 selecting by lot the precincts and offices to be audited.

13 5. The commissioner shall appoint the members of the
14 postelection audit board. The postelection audit board shall
15 be comprised of members affiliated with the political parties
16 as provided for regular elections boards in section 49.12.

17 6. *a.* When all members of the postelection audit board
18 have been selected, the board shall undertake and complete the
19 required audit no later than two business days following the
20 canvass. The ballots in each precinct chosen shall be counted
21 by hand. The commissioner or the commissioner's designee
22 shall supervise the handling of ballots, tally lists, and the
23 printed reports from the automatic tabulating equipment to
24 ensure that the ballots, tally lists, and printed reports are
25 protected from alteration or damage. The board shall open only
26 the sealed ballot containers from the precincts chosen to be
27 audited. The board shall recount only the ballots which were
28 voted and counted for the office in question, including any
29 disputed ballots returned as required in section 50.5.

30 *b.* Immediately following the conclusion of the audit,
31 the postelection audit board shall make and file with the
32 commissioner a written report of its findings, which report
33 shall be signed by the chairperson of the postelection audit
34 board and one other member of the board who is affiliated with
35 a political party different than that of the chairperson.

1 c. (1) If the postelection audit of an office reveals a
2 difference greater than one-half of one percent, but no fewer
3 than two votes, from the results on the printed report from the
4 automatic tabulating equipment, the postelection audit board
5 shall, within two days, conduct an audit of the offices for
6 which such difference was found in at least two additional
7 precincts chosen in the same manner the original precincts
8 were chosen and shall immediately report the results to the
9 commissioner.

10 (2) If the second audit also indicates a difference in the
11 vote totals that is greater than one-half of one percent, but
12 no fewer than two votes, from the results on the printed report
13 from the automatic tabulating equipment, the commissioner shall
14 immediately notify the state commissioner of elections.

15 (3) The state commissioner of elections may direct the
16 commissioner, or any other commissioner of a county where the
17 office appeared on the ballot, to conduct an additional audit
18 of the office in a number of precincts determined by the state
19 commissioner.

20 7. All reports pertaining to a postelection audit shall be
21 filed with the state commissioner of elections, and the state
22 commissioner shall make public the results of the postelection
23 audit in each county as those reports are received.

24 8. The state commissioner of elections shall adopt rules
25 to implement this section including but not limited to rules
26 establishing criteria for the state commissioner to utilize
27 when evaluating the results of postelection audits.

28 Sec. 5. EFFECTIVE DATE. This Act takes effect July 1, 2016.

29 Sec. 6. APPLICABILITY. This Act applies to the general
30 election held in 2016 and all subsequent general elections.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill requires a postelection audit after each general
35 election. The postelection audit is a hand count of the

1 ballots cast in certain contested, partisan offices in selected
2 precincts. The precincts and offices to be audited are to be
3 selected publicly by lot by the county board of canvassers,
4 except that the office of president of the United States
5 and governor are required to be audited after each general
6 election.

7 The bill provides that the number of precincts to be audited
8 is as follows:

9 In counties with 50,000 or fewer registered voters, two
10 precincts.

11 In counties with more than 50,000 registered voters up to and
12 including 100,000 registered voters, three precincts.

13 In counties with more than 100,000 registered voters up to
14 and including 200,000 registered voters, four precincts.

15 In counties with more than 200,000 registered voters, six
16 precincts.

17 The bill provides that if the postelection audit reveals
18 a difference greater than one-half of one percent from the
19 results on the printed report from the automatic tabulating
20 equipment, the postelection audit board shall, within two days,
21 conduct an audit of the offices for which such difference
22 was found in at least two additional precincts. If the
23 second audit also indicates a difference in the vote totals
24 that is greater than one-half of one percent, but no fewer
25 than two votes, from the results on the printed report from
26 the automatic tabulating equipment, the commissioner shall
27 immediately notify the state commissioner of elections. The
28 state commissioner may direct the commissioner, or any other
29 commissioner of a county where the office appeared on the
30 ballot, to conduct an additional audit of the office in a
31 number of precincts determined by the state commissioner.

32 The bill provides that if a recount of an office is
33 requested, the postelection audit of that office shall not be
34 conducted or shall be terminated, as the case may be.

35 The bill requires the state commissioner of elections to

H.F. 2304

1 make public the results of postelection audits.

2 The bill takes effect July 1, 2016, and applies to the
3 general election held in 2016 and all subsequent general
4 elections.